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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,774	12/29/2000	Stephen T. Stoycos	GEMS:0096/YOD 31-CD-5622	8744

7590 11/22/2002

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EXAMINER

DOLINAR, ANDREW M

ART UNIT	PAPER NUMBER
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3747

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,774

Applicant(s)

STOYCOS ET AL.

Examiner

Andrew M. Dolinar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soukal (US 6,035,328) in view of Budd et al (US 5,662,108). Soukal discloses a medical therapeutic and/or diagnostic system with a central server 8 and a plurality of workstations 9. Data transmitting acts as claimed is at least implied by the disclosure of Soukal. Soukal does not disclose the cardiac catheterization procedure. Budd et al teaches that it is known to perform a cardiac catheterization procedure as specified in the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the medical data processing system of Soukal in combination with a cardiac catheterization procedure and system, as taught by Budd et al, because this merely involves combining elements of art recognized suitability for an intended purpose. See MPEP § 2144.07.

Claims 25-30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soukal (US 6,035,328) in view of Snell et al (US 4,791,936). Soukal discloses a medical therapeutic and/or diagnostic system with a central server 8 and a plurality of workstations 9 but does not disclose configuration for a plurality of data channels. Snell et al discloses the use of a plurality of data channels for monitoring an electrophysiology procedure as set forth in the abstract. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to use the medical data processing system of Soukal for monitoring an electrophysiology procedure, as taught by Budd et al, because this merely involves combining elements of art recognized suitability for an intended purpose. See MPEP § 2144.07.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soukal (US 6,035,328) in view of Snell et al (US 4,791,936) as applied to claims 25, 27-30 and 32 above, and further in view of Eady et al (US 6,304,788 B1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to further provide the medical therapeutic and/or diagnostic system of Soukal with a satellite link, as taught by Eady et al, because this merely involves combining elements of art recognized suitability for an intended purpose. See MPEP § 2144.07.

Response to Arguments

Applicant's arguments with respect to claims 25-32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 1-24 have been fully considered but they are not persuasive. Soukal discloses data transmitting to the extent claimed at column 1, lines 54-56. Soukal discloses a system of network PCs and a server communicating via an HTTP protocol (column 3, lines 19-53). All the features necessarily present in such a system are inherently disclosed. This would appear to include the replicating feature as claimed. See, for example, column 1, line 66, to column 2, line 3, of Battersby et al, cited herewith.

The express, implicit, and inherent disclosures of a prior art reference may be relied upon in the rejection of claims under 35 U.S.C. 102 or 103. "The inherent teaching of a prior art reference, a question of fact, arises both in the context of anticipation and obviousness." *In re*

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Napier, 55 F.3d 610, 613, 34 USPQ2d 1782, 1784 (Fed. Cir. 1995) (affirmed a 35 U.S.C. 103 rejection based in part on inherent disclosure in one of the references). See also *In re Grasselli*, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983). The interconnection of computer devices as disclosed by Soukal is generally similar to that disclosed by applicant. Once a reference teaching product appearing to be substantially identical is made the basis of a rejection, and the examiner presents evidence or reasoning tending to show inherency, the burden shifts to the applicant to show an unobvious difference. See MPEP § 2112.

The rationale to modify or combine the prior art does not have to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). Soukal states at column 1, lines 6-7, "The present invention is directed to a medical therapeutic and/or diagnostic system", but does not limit the system to use with a specific medical therapeutic and/or diagnostic device. This provides an implied suggestion to one of ordinary skill in the art to combine the communication system of Soukal with specific medical therapeutic and/or diagnostic devices known in the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Dolinar whose telephone number is (703) 308-1948. The examiner can normally be reached on Mon. - Thu. (7:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Yuen can be reached on (703) 308-1946. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Andrew M. Dolinar
Primary Examiner
Art Unit 3747

AMD
November 21, 2002